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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/637,144
Filing Date: August 08, 2003
Appellant(s): GAGE ET AL.

Robert W. Holland
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/3/2009 appealing from the Office action mailed 7/22/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6526014	Masaki et al.	2-2003
6404707	Kaneda et al.	6-2002
US 2006/0067190	Kurobe et al.	3-2002

US 2004/0130993	Nadershahi et al.	1-2003
WO 2003/091935	Stan	11-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe et al. (hereinafter Kurobe – US Doc. No. 2006/0067190 A1) in view of Masaki et al. (hereinafter Masaki – US Pat. No. 6,526,014 B2) and further in view of Kaneda et al. (hereinafter Kaneda – US Pat. No. 6,404,707 B1) as stated in the Office Action mailed on 7/22/2008.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe et al. (hereinafter Kurobe – US Doc. No. 2006/0067190 A1) in view of Masaki et al. (hereinafter Masaki – US Pat. No. 6,526,014 B2) and further in view of Kaneda et al. (hereinafter Kaneda – US Pat. No. 6,404,707 B1) and even further in view of Nadershahi (US Doc. No. 2004/0130993 A1) as stated in the Office Action mailed on 7/22/2008.

Claims 10 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe et al. (hereinafter Kurobe – US Doc. No. 2006/0067190 A1) in view of Masaki et al. (hereinafter Masaki – US Pat. No. 6,526,014 B2) as stated in the Office Action mailed on 7/22/2008.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe et al. (hereinafter Kurobe – US Doc. No. 2006/0067190 A1) in view of Masaki et al. (hereinafter Masaki – US Pat. No. 6,526,014 B2) and further in view of

Nadershahi (US Doc. No. 2004/0130993 A1) as stated in the Office Action mailed on 7/22/2008.

Claims 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe et al. (hereinafter Kurobe – US Doc. No. 2006/0067190 A1) in view of Masaki et al. (hereinafter Masaki – US Pat. No. 6,526,014 B2) and further in view of Stan (WO 2003/091935 A3) as stated in the Office Action mailed on 7/22/2008.

(10) Response to Argument

A. Independent claim 1

Appellant argues, on page 3, that Examiner does not present a reference for each and every limitation and specifically does not show a reference for storing an adjusted write strategy on a hard disk drive for use in subsequent writes. Examiner respectfully disagrees with this argument. It is noted that Kurobe discloses storing write strategies and disc information on a ROM memory (see Figure 1, element 17a; see also page 9, paragraph 0125 and page 11, paragraphs 0140-0141). Examiner asserts that these are both non-volatile form of memory (meaning that the memory can retain stored information even when not powered – i.e. ROMs, flash memory, and magnetic memory), then the ROM is an art recognized equivalent of the hard disk drive and would have been an obvious matter of design choice to utilize one or the other (see Final Official Action mailed on 7/22/2008, page 3, final paragraph).

Appellant further argues that a hard disk drive stores information outside of the optical drive. Examiner respectfully disagrees. Examiner asserts that since Kurobe and Masaki admittedly do not show storing write strategy information on a hard disk drive

that is 'separate from and interfaced with the optical disk drive', the Kaneda reference was introduced to show the storage of write strategy information on a host computer that controls an array of optical disc drives (see Figure 6, elements 99 and 800). Examiner also asserts that even though Kurobe shows storing the write strategy information on a ROM which is part of the disc drive, it has been held that simple integration of parts involves only routine skill in the art, thus this limitation is rendered obvious.

B. Independent claim 10

Appellant argues, on page 3, that Kurobe and Masaki fail to disclose averaging power settings across plural distributed areas of the optical disc and that Examiner agreed with this argument in the final Advisory Action mailed on 10/16/2008. Examiner respectfully disagrees. In the final Advisory Action mailed on 10/16/2008, Examiner noted the piecemeal analysis of the office action which served as the basis of Applicant arguments (see last paragraph of Advisory Action). Furthermore, Examiner continues to point out that Masaki discloses finding an optimum write power at plural locations throughout the disc (see Figure 11) as well as averaging the write powers for a specific section of the disc (see Figure 17). Examiner does not concede arguments by Appellant that Examiner had previously acknowledged that the aforementioned references did not render claim 10 obvious.

C. Independent claim 18

Appellant recited similar arguments to those mentioned in claim 10 above. Examiner also disagrees with those arguments for the same reasons as stated in the response to Independent claim 10 above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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